



CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

RECEIVED and FILED by the
NEW JERSEY STATE BOARD OF
VETERINARY MEDICAL EXAMINERS
Division of Consumer Affairs on this date of: 11/5/2010
State Board of Veterinary Medical Examiners
124 Halsey Street, 6th Floor, Newark, NJ 07102



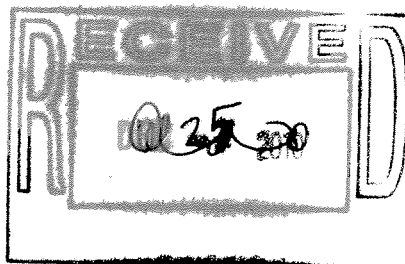
PAULA T. DOW
Attorney General

THOMAS R. CALCAGNI
Acting Director

November 17, 2010

BY CERTIFIED AND REGULAR MAIL

Robert S. Zerbe, V.M.D.
Stafford Veterinary Hospital
221 North Main Street, Route 9
Manahawkin, New Jersey 08050



Mailing Address:
P.O. Box 45020
Newark, NJ 07101
(973) 504-6500

Re: **I/M/O ROBERT S. ZERBE, V.M.D.**
Complaint Number: 10-039

Offer of Settlement in Lieu of Disciplinary Proceeding

Dear Dr. Zerbe:

This letter is to advise you that the New Jersey State Board of Veterinary Medical Examiners (hereinafter the "Board") has had an opportunity to review information concerning your professional conduct following its consideration of a consumer complaint filed by Dr. Robin Shapiro. The complaint alleged, among other contentions, that you engaged in negligence and professional misconduct in your care and treatment of Dr. Shapiro's dog "Casey," on September 17, 2009. More specifically, the complainant alleged that you failed to properly respond to the emergency situation that arose after administering a sedative drug, namely Domitor IM, to Casey.

Specifically, the information reviewed by the Board included the following documents:

1. A complaint filed on March 20, 2010, by Dr. Robin Shapiro,
as well as any and all attachments and exhibits;
2. A letter, dated April 9, 2010, from Robert S. Zerbe, V.M.D.,
to the Board as well as any and all attachments and exhibits;
and

3. Medical Records of "Casey" Shapiro.

Upon review of all available information, the Board has found that probable cause exists to support a finding that you failed to comply with the Veterinary Practice Act and its accompanying regulations, in violation of N.J.S.A. 45: 1-21 (h), in that you failed to provide appropriate emergency care to a patient following initiation of treatment.

The Board's review into this matter revealed that Casey was presented to you at the Stafford Veterinary Hospital ("Hospital") on the morning of September 17, 2009 with a complaint of left hind lameness. Medical history revealed that Casey was an aggressive dog. In order to properly examine Casey, 1 cc of Domitor was administered to sedate her. The medication, however, had no influence on Casey. Another dosage, an injection of 0.4 cc of Domitor IM, was administered a short time later. This additional dose of the sedation drug had a minimal effect on Casey and did not permit you to examine the dog. At this juncture, you recommended that Casey return home and sleep off the effects of the medication. You accompanied the owners and Casey to the car and maintain, in your April 9, 2010 letter to the Board, that the dog, despite the administration of the sedatives, was still aggressive and uncooperative. The owners assert that, once in the car but still in the driveway of the Hospital, Casey suffered a small seizure and became unconscious. The owners returned the dog to the Hospital but were advised that you were unavailable, having left for a meeting. You contend that your staff members observed Casey in the owners' car and noted that she was sedated. Staff members, according to you, also offered to monitor the dog in the Hospital while she was sedated. The owners declined the staff recommendations and took Casey home. According to the owners, Casey remained unconscious for approximately nine hours and became incontinent and dehydrated. The owners further assert that no one called from your Hospital to inquire as to Casey's condition. However, the owners contacted your office and later that evening, you returned their call. Casey ultimately recovered.

1 Upon review of all available information, the Board has found that probable cause exists to support a finding that you failed to comply with the regulations promulgated under the Veterinary Practice Act in violation of N.J.S.A. 45:1-21(e), in that you failed to respond to an emergency situation by not providing any veterinary care to Casey when she was in an unconscious state in the driveway of the hospital following treatment at your Hospital. Specifically, the Board finds that you accepted Casey as a patient and initiated treatment on the dog. You concluded, in your professional judgment, that your anticipated treatment plan could not implemented due to the inability to sedate Casey. Thereafter, you recommended that the owners take Casey home and permit the sedation drugs to wear off. The Board finds that you made no provisions for continued care and/or monitoring of the dog subsequent to your initiation of treatment, including, but not limited to: contacting the owners; directing your staff to contact you on the owners' return or directing the staff to refer the owners to nearby veterinary facility should they return in your absence. The Board has concluded that the conduct detailed above constitutes a violation of N.J.A.C. 13:44-4.7.

At this juncture, the Board has determined that the above violations are sufficient to warrant the initiation of formal disciplinary proceedings against you. Notwithstanding this determination, however, the Board has decided that it will first offer you an opportunity to settle this matter, thereby avoiding the initiation of disciplinary proceedings, should you consent to:

1. Cease and desist from future violation of the emergency case rule, namely N.J.A.C. 13:44-4.7;
2. Pay a civil penalty in the amount of **\$1,000.00** for failing to respond to an emergency care situation, to be paid immediately upon your signing of the acknowledgment at the bottom of this letter for your violation of N.J.S.A. 45:1-21 (h) and N.J.A.C. 13:44-4.7.

If you are willing to settle this matter on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter, and returning it to the Board office. In such event, this letter will be a matter of public record.

In the event that you are unwilling to settle this matter on the offered settlement terms, it will be referred to the Attorney General's Office for the initiation of appropriate disciplinary action. In such event, you will be afforded an opportunity to defend against the alleged violations. If an evidentiary hearing is deemed warranted, the Board will either conduct that hearing at a date and time to be scheduled or refer the matter to the Office of Administrative Law. You are advised, however, that in the event that formal charges are filed, the Board may assess civil penalties in an amount greater than that herein offered in settlement should any charges against you be sustained.

Additionally, the Board may, if the facts are found to so warrant, enter an Order requiring you to reimburse certain monies and/or requiring you to pay costs incurred by the Board. Should you have any questions, concerning this letter or the settlement offer herein, I suggest you contact Deputy Attorney General Olga E. Bradford, who may be reached at (973) 648-3696.

If you elect to settle this matter presently, you should sign the acknowledgment at the bottom of this letter and return it to the Board within fifteen (15) days following your receipt of this letter. In the event that the Board receives no response from you within fifteen (15) days, the Board's settlement offer will be withdrawn, and the matter will be referred to the Attorney General's Office for the initiation of appropriate disciplinary action.

NEW JERSEY STATE BOARD OF
VETERINARY MEDICAL EXAMINERS

By: 
LESLIE G. ARONSON
Executive Director

ACKNOWLEDGMENT: I, **ROBERT S. ZERBE, V.M.D.**, hereby acknowledge that I have read and reviewed the settlement proposal set forth in the above letter. I acknowledge the conduct that had been charged. I am aware that, by signing this acknowledgment, I am waiving any rights I may have to defend myself against any charges of wrongdoing at an administrative hearing. I am also aware that the action taken against me by the Board herein is a matter of public record, and that this letter is a public document. I hereby agree to pay a penalty in the amount of **\$1,000.00** for failing to comply with the requirements of N.J.A.C. 13:44-4.7. I also agree to comply with all other requirements set forth in this settlement letter.


ROBERT S. ZERBE, V.M.D.

DATED:

11/22/10

cc: Olga E. Bradford, Deputy Attorney General